

REMARKS

Applicant respectfully requests entry and consideration of the above amendments even though presented after a final rejection. Applicant submits that the amendments do not raise new issues or require a new search. Further, entry and consideration of the amendments may isolate issues for potential allowance or appeal. The amendments were not presented earlier in the prosecution due to a better understanding of the Examiner's position as reflected in the latest Office Action.

Specification

Applicant respectfully submits that the Abstract contains the proper content. Applicant submits that the details within the Abstract are not extensive details. Accordingly, Applicant respectfully requests withdrawal of the objection with respect to the Abstract.

Summary

Claims 1, 2, 4-11, 13-21, 23 and 24 stand in this application. Claims 3, 12 and 22 are canceled. Claims 1, 4, 9, 12, 24, 20 and 23 are currently amended. No new matter has been added. Favorable reconsideration and allowance of the standing claims are respectfully requested

Examiner Interview

Applicants would like to thank Examiner Goodchild for conducting a telephone interview with Applicants' representative on May 28, 2008. During the interview, Examiner Goodchild and Applicants' representative discussed the independent claims, the applied reference(s), and the grounds of rejection. The substance of the interview is reflected by the foregoing amendments and the following remarks.

35 U.S.C. § 102

At page 3, paragraph 3 of the Office Action claims 1-24 stand rejected under 35 U.S.C. § 102 as being anticipated by United States Patent Number 6,584,109 to Feuerstraeter et al. (hereinafter "Feuerstraeter"). Applicant respectfully traverses the rejection, and requests reconsideration and withdrawal of the anticipation rejection.

Applicant respectfully submits that to anticipate a claim under 35 U.S.C. § 102, the cited reference must teach every element of the claim. *See* MPEP § 2131, for example. Applicant submits that Feuerstraeter fails to teach each and every element recited in claims 1, 2, 4-11, 13-21, 23 and 24 and thus they define over Feuerstraeter. For example, with respect to claim 1, Feuerstraeter fails to teach, among other things, the following language:

determining whether capability information for a device has been collected;
collecting capability information for each device in accordance with said determining;
updating a capability table with said capability information.

According to the Office Action, this language is disclosed by Feuerstraeter at 4, lines 52-55, column 7, lines 1-11 and column 4, lines 28-30. Applicant respectfully disagrees.

Applicant respectfully submits that claim 1 defines over Feuerstraeter.

Feuerstraeter at the given cite, in relevant part states:

Auto-Negotiation acts like a rotary switch that automatically switches to the correct technology, such as 10BASE-T, 100BASE-TX, 100BASE-T4, or a corresponding Full Duplex mode. Once the performance mode for the device is determined, Auto-Negotiation passes control of the cable to the appropriate technology and becomes transparent until the connection is broken.

The primary benefit of Auto-Negotiation is the automatic connection of the appropriate performance technology without any intervention from a user, manager, or management software. As new nodes are connected which have 100 Mbps functionality, the port switching fabric of the present invention determines whether the port is transmitting at 10 Mbps or 100 Mbps and routes the signal to the proper repeater logic 306, 308.

As indicated above, Feuerstraeter arguably discloses the use of auto-negotiation to determine the performance mode for a device. More specifically, Feuerstraeter discloses the determination of whether a port is transmitting at 10 Mbps or 100 Mbps and the routing of a signal to the proper repeater logic based upon the determination. By way of contrast, the claimed subject matter discloses “determining whether capability information for a device has been collected” and “collecting capability information for each device in accordance with said determining.”

Applicant respectfully submits that the cited portions of Feuerstraeter fail to disclose the claimed subject matter. For example, the claimed subject matter discloses “determining whether capability information for a device has been collected.” The cited portions of Feuerstraeter clearly fail to disclose a determination of whether capability information has been collected. The subject matter disclose by Feuerstraeter merely performs auto-negotiation to detect the performance mode of a device once a connection has been made. Feuerstraeter fails to teach or suggest a determination as to whether the

performance mode of a device has been previously collected. It follows that Feuerstraeter also fails to teach or disclose “collecting capability information for said device in accordance with said determination.”

Furthermore, Applicant respectfully submits that “updating a capability table with capability information” is not disclosed, suggested, or implied by Feuerstraeter. Feuerstraeter, at the given cite, arguably discloses an optional Auto-Negotiation protocol that allows devices to exchange information about their abilities over a link. Feuerstraeter, however, fails to disclose a list or table that is used to store the capabilities of a device connected to a fabric. Further, Feuerstraeter fails to disclose wherein capability information “has to be stored in a list” as argued by the Office Action. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claim 1. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to claims 2-8, which depend from claim 1 and, therefore, contain additional features that further distinguish these claims from Feuerstraeter.

Claims 9, 14 and 20 recite features similar to those recited in claim 1. Therefore, Applicant respectfully submits that claims 9, 14 and 20 are not anticipated and are patentable over Feuerstraeter for reasons analogous to those presented with respect to claim 1. Accordingly, Applicant respectfully requests removal of the anticipation rejection with respect to claims 9, 14 and 20. Furthermore, Applicant respectfully requests withdrawal of the anticipation rejection with respect to all claims that depend from claims 9, 14 and 20, and therefore contain additional features that further distinguish these claims from Feuerstraeter.

Conclusion

For at least the above reasons, Applicant submits that claims 1, 2, 4-11, 13-21, 23 and 24 recite novel features not shown by the cited references. Further, Applicant submits that the above-recited novel features provide new and unexpected results not recognized by the cited references. Accordingly, Applicant submits that the claims are not anticipated nor rendered obvious in view of the cited references.

Applicant does not otherwise concede, however, the correctness of the Office Action's rejection with respect to any of the dependent claims discussed above. Accordingly, Applicant hereby reserves the right to make additional arguments as may be necessary to further distinguish the dependent claims from the cited references, taken alone or in combination, based on additional features contained in the dependent claims that were not discussed above. A detailed discussion of these differences is believed to be unnecessary at this time in view of the basic differences in the independent claims pointed out above.

It is believed that claims 1, 2, 4-11, 13-21, 23 and 24 are in allowable form. Accordingly, a timely Notice of Allowance to this effect is earnestly solicited.

Appl. No. 10/816,253
Response Dated June 30, 2008
Reply to Office Action of March 31, 2008

Docket No.: 1020.P18643
Examiner: Goodchild, William J.
TC/A.U. 2145

The Examiner is invited to contact the undersigned at 724-933-9338 to discuss any matter concerning this application.

The Office is hereby authorized to charge any additional fees or credit any overpayments under 37 C.F.R. § 1.16 or § 1.17 to Deposit Account 50-4238.

Respectfully submitted,

KACVINSKY LLC



Robert V. Racunas, Reg. No. 43,027
Under 37 CFR 1.34(a)

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KACVINSKY LLC
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402
(724) 933-5529